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2857 West 8th Street Developers LLC

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

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| -----X | | |
| 2857 WEST 8 TH STREET DEVELOPERS LLC, | : | No. |
| | : | |
| Plaintiff, | : | Complaint |
| | : | |
| vs. | : | |
| | : | |
| BLINK HOLDINGS, INC., | : | |
| | : | |
| Defendant. | : | |
| -----X | | |

Plaintiff 2857 West 8th Street Developers LLC, by its attorneys Yeskoo Hogan & Tamlyn, LLP, complains of Defendant Blink Holdings, Inc. as follows:

1. Plaintiff 2857 West 8th Street Developers LLC (“Landlord”) is a Delaware limited liability company with its principal place of business located in the State and County of New York. It is a citizen of the countries of Malta, Russia, Cyprus and Switzerland. A list of its members and their citizenship is annexed hereto as Exhibit 1.
2. Defendant Blink Holdings, Inc. (“Guarantor”) is a Delaware corporation with its principal place of business located in the State and County of New York.
3. This Court has subject matter jurisdiction pursuant to 28 USC §1332 because the amount in controversy, exclusive of interest and costs, exceeds \$75,000 and is between citizens of a state and of a foreign state.

4. This Court has personal jurisdiction over defendant Blink Holdings, Inc. because: (a) it is a citizen of New York; (b) it does business in the State of New York; and (c) it is guarantor of a lease for property located in the State of New York.

5. Venue is appropriate in the Southern District of New York under 28 USC § 1391 because Defendant is a resident of this district.

6. In or about November, 2014 Blink West 8th Street, Inc. (“Tenant”) leased part of the Premises located at 2857 West 8th Street, Brooklyn, NY pursuant to a lease (the “Lease”). A copy of the Lease is annexed hereto as Exhibit 2. The term of the Lease expires on or about September 30, 2030.

7. In or about November, 2014 Defendant Blink Holdings, Inc. unconditionally guaranteed “the full and timely payment of all Base Rent due under the Lease and Tenant’s Pro-Rata Share of Taxes due under Article 5 of the Lease, each for the entire Term of the Lease...” A copy of the guaranty (the “Guaranty”) is annexed hereto as Exhibit 3.

8. Plaintiff purchased the Premises on March 29, 2018. As part of the transaction the prior owner, 2857 West 8th Street Associates LLC, assigned to Plaintiff the Lease and Guaranty.

9. The Lease provides for payment to Landlord of monthly Base Rent of \$40,833.33 through September, 2020, monthly Base Rent of \$48,618.83 for the period October, 2020 through September, 2025, and monthly Base Rent of \$53,996.42 for the period October, 2025 through September, 2030.

10. The Lease provides for payment to Landlord of a pro rata share (25.5%) of real estate taxes levied upon the Premises. Tenant’s pro rata share of the real estate taxes levied upon the Premises for calendar year 2020 is \$89,014.55 (the “Real Estate Taxes”). The Landlord

pays one half the Real Estate Taxes in June and one half in December. There is therefore currently owing to Landlord \$44,508.27 with an additional \$44,508.28 becoming due in December, 2020.

11. The Tenant stopped paying Base Rent and Real Estate Taxes as of April 1, 2020.

Count One
(Breach of Guaranty)

12. Plaintiff repeats paragraphs 1 through 11.

13. There is due and owing to Plaintiff 2857 West 8th Street Developers LLC unpaid Base Rent commencing with the month of April 2020, which as of November 1, 2020 amounts to \$390,856.47. Base Rent continues to accrue in the amount of \$48,618.83 per month.

14. There is due and owing to Plaintiff 2857 West 8th Street Developers LLC unpaid Real Estate Taxes in the amount of \$44,507.27. An additional \$44,507.28 will become due in December, 2020.

15. Pursuant to the Lease and Guaranty, Plaintiff 2857 West 8th Street Developers LLC is additionally entitled to recover a late fee of 3%, default interest at the rate of 9% per annum, and its reasonable attorneys' fees and expenses.

16. The Defendant is liable to Plaintiff 2857 West 8th Street Developers LLC for the full amount of unpaid Base Rent, Real Estate Taxes, late fee, default interest, late fees and reasonable attorneys' fees and expenses.

PRAYER FOR RELIEF

WHEREFORE, respectfully requests that the Court enter judgment against Defendant Blink Holdings, Inc. as follows:

A. Awarding 2857 West 8th Street Developers LLC Base Rent in the amount of \$390,856.47 through November 1, 2020, plus \$48,618.83 per month thereafter;

B. Awarding 2857 West 8th Street Developers LLC Real Estate Taxes in the amount of \$44,507.27 due and owing at present, plus \$44,507.28 becoming owing in December, 2020, and such additional amounts as are unpaid at the time of trial;

C. Awarding Plaintiff late fees, default interest, costs and reasonable attorneys' fees and expenses; and

D. Awarding Plaintiff such other and further relief as the Court deems just.

Dated: November 19, 2020

Yeskoo Hogan & Tamlyn, LLP
Attorneys for Plaintiff
2857 West 8th Street Developers LLC

By: s/ _____
Richard C. Yeskoo